

REMARKS

Reconsideration and allowance of the application on the basis of the foregoing amendments, following arguments, and for other reasons, are respectfully requested.

Claims 21-42 and claims 44-51 are pending in the application. All stand rejected. Claims 1-20 and 43 stand cancelled.

Claims 21-24, 34, 36-38, 40-42, and 44-49 were rejected under 35 USC 102(b) as being anticipated by Woolley (5,100,354). The Examiner stated:

"The device of Woolley reads on the limitations of the claimed invention including: Regarding claims 1 and 38, a wing section (combination 37, 31 and 39) and a fuselage or tail section (13) for on water and flying through the air aerodynamically and separable into two sections (fig. 9--first section and second section--board 13), comprising a first section constituting the wing (fig. 9) of the product and deriving its lift in flight from forces resulting from its motion through air and independently usable as a rideable element, and a second section constituting the fuselage or tail section (fig. 2 and 5) of the product and independently usable as a surfboard and the first section having longitudinally-extending control fins on its underside (42 and 43). In reference to 'rideable element', it should be noted applicant has not claimed structure to read over the broadest interpretation of a 'rideable element' (i.e., and structure that can support a user). Further, the wing section of Woolley will fly through the air depending on the speed of the boat, the lift against the water and the weight of the user. It should be also noted the second section can be used independently as a surfboard since the board is capable of being disconnected from the wing section as seen in figure 9."

Hence, the Examiner treats as a "wing section", the Woolley combination of the blade 37, elongate support 31, and rear planing blade 39. But a "wing", as noted in the previous Amendment, in The American Heritage Dictionary of the English Language, Published by the Dell Publishing Co., Inc., Published by arrangement with Houghton Mifflin

Company, Third printing--February 1982, is defined as: "3. An airfoil whose principal function is providing lift, esp. either of two such airfoils, positioned on each side of the fuselage."; and it is specifically required in applicant's claims that the "wing" be "deriving its lift in flight from forces resulting from its motion through air". There is no teaching in Woolley that the Examiner's alleged "wing section" therein derives "its lift in flight from forces resulting from its motion through air". Moreover, there is no teaching that "the wing section of Woolley will fly through the air depending on the speed of the boat, the lift against the water and the weight of the user"; it may jump through the air as a projectile, but not derive "its lift in flight from forces resulting from its motion through air". While it may be true that the Examiner's imagined Woolley surfboard (elongate board 13) "will fly through the air depending on the speed of the boat, the lift against the water [of his blade 37, elongate support 31, and rear planing blade 39] and the weight of the user", that is not what is being claimed.

Accordingly, applicant submits that his claims 21-24, 34, 36-38, 40-42, and 44-49 are not anticipated by Woolley (5,100,354).

Nevertheless, in order to expedite the prosecution of the application, applicant has amended all of the claims involved by amending their base independent claims to make even more clear that his "wing section" derives "its lift in flight from forces resulting from its motion through air". Thus, in example, claim 1 now specifies the "first section constituting the wing of the product and deriving its lift in flight from the reaction forces resulting from its motion through air". Woolley's "wing section (combination 37, 31 and 39)" does not derive "its lift in flight from the reaction forces resulting from its motion through air". Of course, Woolley's "wing section (combination 37, 31 and 39)" does not even fly through the air. To the extent his "flying ski" 11 does, it too does not derive "its lift in flight from the reaction forces resulting from its motion through air", being dependent instead on the support of the strut 29.

Claim 28 too was amended to make more clear that his "wing section" derives "its lift in flight from forces resulting from its motion through air". Thus, it now specifies

that "the product derives its lift in flight from the reaction forces resulting from its motion through air aerodynamically".

Claims 25-33, and 49-51 were rejected under 35 USC 103(a) as being unpatentable over Woolley in view of Saghri (5,498,184), the Examiner alleging that "Woolley teaches most of the elements of the claimed invention including generally thin and flat elongated portion (11), a wider rear end (13) on the elongated portion, control elements on the upper surface (27) and a non-slip board (col.5, lines 60-63)". Applicant respectfully disagrees. To begin, Woolley's ski 11 does not derive "its lift in flight from forces resulting from its motion through air". Moreover, Woolley does not have a wider rear end (13) on his elongated portion 11; IF ANYTHING, IT IS NARROWER, as a look at Fig. 5 will confirm. (In fact, Woolley is just the opposite of applicant: he has a wider front end portion!) And Saghri does not make up for the Woolley deficiency.

Saghri also fails to make up for Woolley's failure "to teach the tail section having longitudinally extending fins on the upper side of the product, thin fins extending upwardly and downwardly o[f] the board and an inflatable bladder". The Examiner may have been correct in stating that "Saghri teaches a board 30 having longitudinally extending fins (44 and 48) on the upper side for the purpose of enhancing the propulsive capability ad [sic] stability of the board "; and even in stating that "It would have been obvious to one of ordinary skill in the art to incorporate longitudinally extending fins, as suggested by Saghri, on the upper side of Woolley," to enhance propulsive capability, but that is not the purpose served by applicant's tail-section upper-side longitudinally extending fins. (They are there for "facilitating control of the product when in motion".

Nor does applicant argue with the Examiner's further statement that "Saghri teaches that it is well know in the prior art to attach mechanical devices (i.e., fins) to the underside of the board so as to provide an obstacle against which rushing water impacts for propelling the board (see, col. 1, par.5). But applicant challenges that "it would have been obvious to have the longitudinally-extending fins extend downwardly on the board

of Woolley for "facilitating control of the product when in motion"; Saghri just does not teach that!

Claims 25-33, and 49-51 were rejected under 35 USC 103(a) as being unpatentable over Woolley in view of Saghri (5,498,184), the Examiner alleging inter alia that "Woolley teaches most of the elements of the claimed invention including, generally thin and flat elongated portion (11), a wider rear end (13) on the elongated portion, control elements on the upper surface (27) and a non-slip board (col. 5, lines 60-63). However Woolley fails to teach the tail section having longitudinally extending fins on the upper side of the product, thin fins extending upwardly and downwardly o[f] the board and an inflatable bladder".

The modification of the Woolley device to employ an inflatable bladder according to Saghri, will not result in the claimed device. As observed above, Woolley does not teaches a wider rear end (13) on the thin and flat elongated portion (11). And it would not have been obvious to one having ordinary skill in the art, to use the inflatable material as taught by Saghri with the device of Woolley to create applicant's claimed device and to store it when deflated. Hence claims 25-33, and 49-51 are patentable over Woolley in view of Saghri.

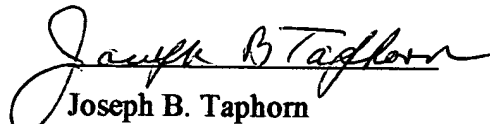
Claims 35 and 39 were rejected under 35 USC 103(a) as being unpatentable over Woolley in view of Schlueter (3,320,625), the Examiner alleging inter alia that "Woolley teaches most of the elements of the claimed invention except for a tow." Claims 35 and 39 being dependent claims, they incorporate all of the limitations of their base claims. As observed above, Woolley does not teach all of the limitations of the claimed invention, such as the " derives "its lift in flight from forces resulting from its motion through air", generally thin and flat elongated portion (11), a wider rear end (13) on the elongated portion, the tail section having longitudinally extending fins on the upper side of the product, thin fins extending upwardly and downwardly o[f] the board and an inflatable bladder".

So whether or not it would have been obvious to incorporate a tow, per Schlueter, in the device of Woolley, it would not have resulted in the invention being set forth in claims 35 and 39.

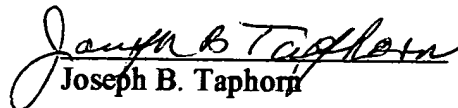
Applicant continues to believe that he is the first one to invent a rider recreational product having a wing section and a fuselage or tail section for skimming on water and flying through the air aerodynamically, that is separable into two sections comprising a first section constituting the wing of the product and deriving its lift in flight from the reaction forces resulting from its motion through air and independently usable as a rideable element, and a second section constituting the fuselage or tail section of the product and independently usable as a surfboard or ski. The claims reflect different aspects of the new invention.

Wherefore applicant believes that this application has been placed in condition for allowance, which favorable action at an early date is earnestly solicited.

Respectfully submitted,


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